

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

RLI INSURANCE COMPANY

9025 N. Lindbergh Drive
Peoria, Illinois 61615

CASE NO. 1:17-cv-491

**Judge
Magistrate Judge**

and

CASSIDY TURLEY, INC.

12412 Powerscourt Drive, Suite 20
St. Louis, Missouri 63131

Plaintiffs,

v.

WESTFIELD

One Park Circle
P.O. Box 5001
Westfield Center, Ohio 44251

SERVE: Frank Carrino
Registered Agent
One Park Circle
Westfield Center, Ohio 44251

Defendant.

COMPLAINT FOR DECLARATORY JUDGMENT

Plaintiffs provide the following as its Complaint for Declaratory Judgment against Defendant, Westfield.

THE PARTIES

1. RLI Insurance Company is an insurance corporation duly organized and existing under the laws of the State of Illinois, with its principal place of business in Illinois.
2. Cassidy Turley Ohio, Inc. is a corporation duly organized and existing under the laws of the State of Missouri, and having its principal place of business in Missouri.
3. Westfield is an insurance company corporation duly organized and existing under the laws of the State of Ohio, with its principal place of business in Ohio.
4. Cassidy Turley Ohio, Inc. is a Named Insured under a Commercial General

Liability Policy with RLI bearing Policy No. CGL0013616, for the policy period of August 1, 2012 through August 1, 2013 (“RLI Contract”)

5. Cassidy Turley Ohio, Inc. is also an insured under Westfield Commercial Package Policy bearing Policy No. TRA 5 685 426, for the policy period of March 16, 2012 through March 16, 2013 (“Westfield Contract”)

JURISDICTION AND VENUE

6. This is an action for declaratory judgment brought pursuant to 28 USC § 2201, wherein RLI Insurance Company seeks a declaration of its rights and legal relations arising from a Contract of Insurance entered into between itself and its named insured, Cassidy Turley, Inc.
7. The coverage underlying this declaratory judgment involves a claim in which the claimant is seeking in excess of \$75,000.00, exclusive of interest and costs.
8. This Court has jurisdiction over this action pursuant to 28 USC § 1332..

FACTS UNDERLYING THE CONTROVERSY

9. Cincy Office Properties is the Owner of Holiday Office Park located at 644 Linn St. 801-A and 801-B West Eighth St.
10. Cincy Office Properties entered into a Property Management Agreement with Cassidy Turley Ohio, Inc. to be the exclusive property manager for said property. The agreement is attached as Exhibit A.
11. Pursuant to the clear terms of the Property Management Agreement, Cincy Office Properties agreed to provide commercial general liability insurance written on an occurrence-form basis with limits no less than \$1,000,000 per occurrence and \$2,000,000 aggregate combined single limit.
12. Cincy Office Properties agreed to add Cassidy Turley Ohio, Inc. as an Additional Insured for all work performed within the scope of Cassidy Turley Ohio, Inc.’s responsibilities as a property manager set forth in the agreement.
13. Cincy Office Properties agreed its commercial general liability insurance would be primary with respect to bodily injury, personal injury, and property damage claims covered by both Cincy Office Properties commercial general liability insurance and Cassidy Turley Ohio, Inc.’s commercial general liability policy.
14. On September 3, 2014, Heather Everett filed a claim for bodily and personal injuries in Hamilton County Common Pleas Court under Case Number A1405220 against Cincy Office Properties and Cassidy Turley Ohio, Inc.
15. The allegations against Cassidy Turley Ohio, Inc. arise out of its responsibilities as a property manager set forth in the agreement between Cassidy Turley Ohio, Inc., and Cincy Office Properties.
16. Westfield issued to Cincy Office Properties Inc. a Commercial Package Policy bearing Policy No. TRA 5 685 426, for the policy period of March 16, 2012 through March 16, 2013 (the “Westfield Contract”). A true and accurate copy of the Contract is attached as Exhibit B.

17. Consistent with the Property Management Agreement, Cassidy Turley Ohio, Inc. is an insured on the Westfield insurance contract bearing Policy No. TRA 5 685 426. Cassidy Turley Ohio, Inc. also qualifies as an insured under said contract.
18. Cassidy Turley Ohio, Inc. tendered the Everett claim to Westfield seeking defense and indemnity from Westfield pursuant to Westfield's contractual obligations under policy TRA 5 685 426.
19. Westfield denied Cassidy Turley Ohio, Inc.'s status as an insured and denied the tender of defense and indemnity.
20. As a result, RLI continues to defend Cassidy Turley Ohio, Inc. in direct conflict with the terms of the Westfield insurance policy and the Property Management Agreement.

CASSIDY TURLEY OHIO, INC IS AN INSURED UNDER THE WESTFIELD INSURANCE POLICY.

21. The Westfield Commercial General Liability Coverage Form specifically states:

The word "insured" means any person or organization qualifying as such under Section II - Who Is An Insured. See Exhibit B, CG 00011207 page 1 of 16.
22. Section II- Who Is An Insured specifically includes property managers of Cincy Office Properties as insureds:

Any person (other than your "employee" or "volunteer worker), or any organization while acting as your real estate manager. See Exhibit B, CG 00011207 page 10 of 16
23. Cassidy Turley Ohio, Inc. was acting as Cincy Office Properties at all time relevant to the claims of Heather Everett asserted in Hamilton County Case Number A14 5220.
24. As a result, Cassidy Turley Ohio, Inc. qualifies as an insured under the Westfield insurance policy attached as Exhibit B and is entitled to defense and indemnity from Westfield for the claims asserted in Hamilton County Case Number A1405220.
25. Westfield has wrongfully denied defense and indemnity to Cassidy Turley Ohio, Inc.

WHEREFORE, RLI Insurance Company and Cassidy Turley, Inc. seek a declaration as follows:

- A. Westfield owes Cassidy Turley Ohio, Inc. a duty to defend and indemnify the claims asserted in Hamilton County Case Number A1405220;
- B. An Order for costs, expenses and reasonably attorneys' fees incurred by RLI Insurance Company and Cassidy Turley Ohio, Inc. in this action; and,
- C. Such further and additional relief as this Court deems just and equitable.

Respectfully submitted,

GARVEY | SHEARER | NORDSTROM, PSC

/s/Jennifer K. Nordstrom

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